

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARISEL RIOS,

Plaintiff,

v.

KILOLO KIJAKAZI,
Acting Commissioner of Social Security,

Defendant.

No. 20-CV-4369 (KMK)

ORDER ADOPTING
REPORT & RECOMMENDATION

KENNETH M. KARAS, United States District Judge:

Marisel Rios (“Plaintiff”) brings this Action pursuant to 42 U.S.C. § 405(g), seeking judicial review of the final decision of the Commissioner of Social Security (the “Commissioner” or “Defendant”),¹ which denied her application for disability insurance benefits and/or supplemental security income benefits. (Dkt. No. 1.) Plaintiff filed a “Motion to Remand and/or Judgment on the Pleadings” pursuant to 42 U.S.C. § 405(g) for further administrative proceedings. (Dkt. Nos. 26–27.) The Commissioner subsequently filed a cross motion for judgment on the pleadings pursuant to Rule 12(c) of the Federal Rules of Civil Procedure. (Dkt. No. 28.)

The case was referred to the Honorable Andrew E. Krause (“Judge Krause”). On August 8, 2022, Judge Krause issued a Report and Recommendation (“R&R”) recommending that the Plaintiff’s Motion be denied, and the Commissioner’s Motion be granted. (Dkt. No. 30.) The Parties did not file any objections to the R&R.²

¹ Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Kilolo Kijakazi has been substituted for Andrew Saul as the Defendant in this Action.

² Judge Krause provided notice that, pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, objections to the R&R were due within fourteen days after being served with a copy. (R&R 26.)

When no objections are filed, the Court reviews an R&R on a dispositive motion for clear error. *See Bickram v. Comm'r of Soc. Sec.*, No. 18-CV-1160, 2021 WL 2665876, at *1 (S.D.N.Y. June 29, 2021); *Andrews v. LeClaire*, 709 F. Supp. 2d 269, 271 (S.D.N.Y. 2010).

The Court has reviewed the R&R and finding no substantive error, clear or otherwise, adopts the R&R.

Accordingly, it is hereby:

ORDERED that the Report and Recommendation, dated August 8, 2022, is ADOPTED in its entirety.

ORDERED that the Plaintiff's Motion to Remand and/or for Judgment on the Pleadings is denied.

ORDERED that the Commissioner's Cross Motion for Judgment on the Pleadings is granted.

ORDERED that judgment be entered in favor of Commissioner.

The Clerk of Court is respectfully requested to terminate the pending Motions, (Dkt. Nos. 26, 27, 28), mail a copy of this Order to Plaintiff at the address on the docket, and close this case.

SO ORDERED.

DATED: August 31, 2022
White Plains, New York



KENNETH M. KARAS
UNITED STATES DISTRICT JUDGE